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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,603	07/18/2005	Hideki Kanemoto	L9289.05162	7269
53989 7590 03/31/2008 DICKINSON WRIGHT PLLC 1901 L STREET NW SUITE 800 WASHINGTON, DC 20036				
EXAMINER				
BOLOURCHIL, NADER				
ART UNIT		PAPER NUMBER		
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03/31/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/542,603

Applicant(s)

KANEMOTO ET AL.

Examiner

NADER BOLOURCHI

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/18/2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 July 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date 7/18/2005

DETAILED ACTION
Priority

1. Acknowledgment is made of applicant's claim for foreign priority filed in JAPAN on 11212003 under 35 U.S.C. 119(a)-(d).

2. It is noted that this application appears to claim subject matter disclosed in prior International Application No. PCT/JP0416962, filed 11152004. A reference to the prior application must be inserted as the first sentence(s) of the specification of this application or in an application data sheet (37 CFR 1.76), if applicant intends to rely on the filing date of the prior application under 35 U.S.C. 119(e), 120, 121, or 365(c). See 37 CFR 1.78(a). For benefit claims under 35 U.S.C. 120, 121, or 365(c), the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of all nonprovisional applications. If the application is a utility or plant application filed under 35 U.S.C. 111(a) on or after November 29, 2000, the specific reference to the prior application must be submitted during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. If the application is a utility or plant application which entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the specific reference must be submitted during the pendency of the application and within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or sixteen months from the filing date of the prior application.

See 37 CFR 1.78(a)(2)(ii) and (a)(5)(ii). This time period is not extendable and a failure to submit the reference required by 35 U.S.C. 119(e) and/or 120, where applicable, within this time period is considered a waiver of any benefit of such prior application(s) under 35 U.S.C. 119(e), 120, 121 and 365(c). A benefit claim filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed benefit claim under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by (1) the reference required by 35 U.S.C. 120 or 119(e) and 37 CFR 1.78(a)(2) or (a)(5) to the prior application (unless previously submitted), (2) a surcharge under 37 CFR 1.17(t), and (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional. The petition should be addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

If the reference to the prior application was previously submitted within the time period set forth in 37 CFR 1.78(a), but not in the first sentence(s) of the specification or an application data sheet (ADS) as required by 37 CFR 1.78(a) (e.g., if the reference was submitted in an oath or declaration or the application transmittal letter), and the information concerning the benefit claim was recognized by the Office as shown by its inclusion on the first filing receipt, the petition under 37 CFR 1.78(a) and the surcharge under 37 CFR 1.17(t) are not

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required. Applicant is still required to submit the reference in compliance with 37 CFR 1.78(a) by filing an amendment to the first sentence(s) of the specification or an ADS. See MPEP § 201.11.

Information Disclosure Statement

3. The information disclosure statement (IDS) submitted on 7/18/2005 have been considered and made of record by the examiner.

Drawings

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, "predetermined interval" recited in claim 1: line 2, "plurality of amplifiers" recited in claim 2: lines 2-3, and "a first switch that outputs an instruction output from the AGC gain calculator to either of the amplifiers" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be

removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

5. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

6. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. It is suggested the phrases "AGC" and "reception diversity" to be included title. For example "AGC Processing for Diversity Reception with Multiple Antennas".

Claim Rejections - 35 USC § 112, first paragraph

The following is a quotation of the first paragraph of 35 U.S.C. 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 1 recited "a plurality of antennas spaced at a predetermined interval or more". It is not clear how "antennas spaced" is related to the "interval or more". Disclosure fails to explain.

Claims 2-5 are rejected due to their dependency to rejected claim 1.

Claim Rejections - 35 USC § 112, second paragraph

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as failing to set forth the preamble of claim, using transitional phrase to define the scope of the claim (See MPEP 2111.03 [R-3]).

Claim Rejections - 35 USC § 102

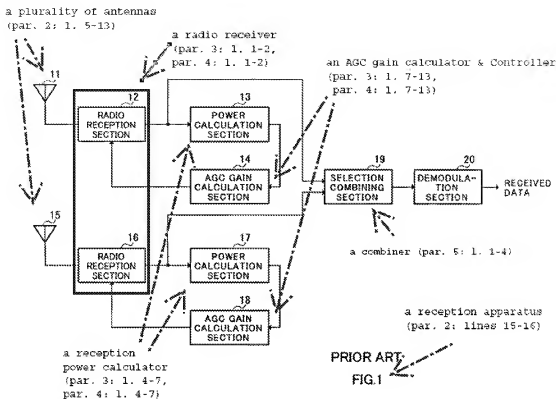
The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

9. Claim 1 is rejected under 35 U.S.C. 102(a) as being anticipated by
Admitted Prior Art ("APA" herein after; Fig. 1 and pars. 1-5)

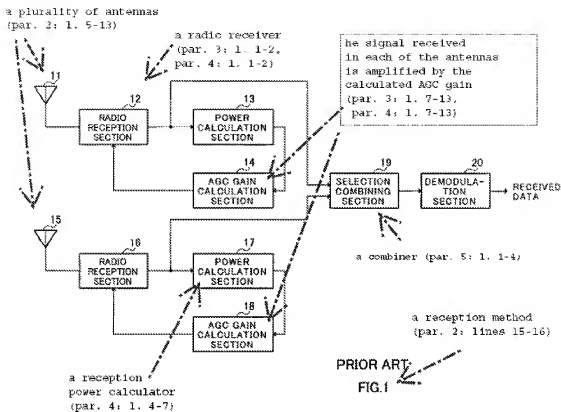
Regarding claim 1. APA discloses a reception apparatus (Fig. 1) comprising: a plurality of antennas spaced at a predetermined interval or more; a radio receiver that amplifies signals received in the antennas; a reception power calculator that calculates reception power of a signal received in each of the antennas; an AGC gain calculator that calculates a gain such that amplified reception power is a predetermined value to instruct to the radio receiver; a controller that instructs the AGC gain calculator to calculate a gain to amplify a received signal received in some of the antennas, when the reception power calculator calculates reception power of a signal received in another one of the antennas; and a combiner that combines amplified signals received in the antennas, as shown below:



Regarding claim 5. APA discloses a reception method (par. 2: lines 15-16)

wherein radio signals are received in a plurality of antennas (radio signals are input of 11 and 15 in Fig. 1; par. 2: l. 5-13), with respect to the signals received in the plurality of antennas an AGC gain of one of the antennas is calculated (par. 3: lines 7-13) when reception power of the other antenna is calculated (par. 4: lines 1-7), the signal received in each of the antennas is amplified by the calculated AGC gain ("instruction for amplifying" in lines 11-13 of pars. 3 and 4) and , and the signals received in the antennas are selected and combined (Fig. 1: 19; par. 5: l. 1-4).

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not

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commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

11. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over APA in view of Ido (US 7,310,503 B2).

Regarding claim 2, APA discloses as stated in rejection of the claim 1 above.

APA also discloses that the radio receiver comprises a plurality of amplifiers (Fig. 1: 12 and 16) that amplifies a signal received (par. 3: lines 1-7; par 4: lines 1-7) for each of the antennas (Fig. 1: 11 and 15), and ... outputs an instruction output from the AGC gain calculator to either of the amplifiers (par. 3: lines 11-13; par 4: lines 11-13), the reception power calculator comprises a plurality of power calculators that calculates a power value of a signal received corresponding to each of the antennas, and a second switch that outputs a power value of one of the power calculators (Fig. 1: 13 and 18) that has completed calculation of the power value to the AGC gain calculator, and the controller instructs ... to output to the AGC gain calculator a power value output from either of the power calculators corresponding to one of the antennas targeted for AGC calculation (par. 3: lines 7-13; par. 4: lines 7-13), and further instructs the first switch to output the instruction output from the AGC gain calculator to corresponding one of the amplifiers (par. 4: lines 1-2). However, APA is silent about using the switch.

However, one of the ordinary skill in the art will recognize that use of switch to connect different portion of receiver in different antenna diversity paths are well known in the art, as it is done by Ido (Fig. 1: signal selector 61 in Fig. 1:33, which selects different AGC unit 13 or 34; col. 7: lines 20-29). Therefore, It would have been obvious to one of ordinary skill in the art, at the time the invention was made to combine the teaching of APA and Ido for the purpose of selectively including different portion of receiver as suggested by Ido (different "AGC" and "OFDM demodulator" as recited in col. 7: lines 20-29).

Remarks

12. No claim is allowed.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lee (5,818,543 A); Hurley et al. (6,891,909 B2); Lyons et al. (2005/0095987 A1).

Contact Information

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nader Bolourchi whose telephone number is (571) 272-8064. The examiner can normally be reached on M-F 8:30 to 4:30.

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15. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David. C. Payne can be reached on (571) 272-3024. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

16. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

/Nader Bolourchi/

Examiner, Art Unit 2611

3/22/2008

/David C. Payne/

Supervisory Patent Examiner, Art Unit 2611